



**Jon - not sure if taking all the reduction from NPS SW is doable in PA :  
Followup from Friday's Call - PA WIP and Allocation decision rules**

**Katherine Antos** to: Jon Capacasa

12/13/2010 05:04 PM

Cc: Suzanne Hall, Lucinda Power, Chuck Fox, James Edward

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Jon -

I just ran a few calculations on what would happen if, per PA's request, we fill all nutrient gaps in PA through reducing the SW LA vs. proportionally reducing SW LA and Ag LA.

In a nutshell, there is not enough SW LA to reduce to fill all the gaps through urban SW. In a nutshell, there is a 189,280 lbs TP gap, which represents 92% of the total SW load (ignoring the fact that at least 50% of the SW is now in the WLA and won't be adjusted down). Similarly, the TN gap that is created by modifying the Susquehanna TMDL allocation represents 24% of the total urban runoff TN load (not including the fact that at least half of this urban load is now in the WLA and not being touched).

This is a long way of saying that it would not be defensible to rely solely on the urban LA to close Susquehanna gaps. We should proportionally reduce from ag LA and urban LA. Do you think this warrants a follow up response back to DEP? Gimme a shout if you have questions.

Thanks,  
Katherine

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----- Forwarded by Katherine Antos/CBP/USEPA/US on 12/13/2010 04:43 PM -----

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Date: 12/13/2010 04:00 PM  
Subject: RE: Followup from Friday's Call - PA WIP and Allocation decision rules

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Jon -

Thank you. We've had internal discussions, and the Deputy Secretary asked that I respond back as he continues to be caught up in a multitude of issues.

I've embedded replies below. If it would help continue to move the conversation forward, I can take the lead in a phone call at (717) 772-5633.

Andy Z

**From:** Capacasa.Jon@epamail.epa.gov [mailto:Capacasa.Jon@epamail.epa.gov]  
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**Subject:** Followup from Friday's Call - PA WIP and Allocation decision rules

John/Andy - this is to confirm the brief conversation we had on Friday afternoon December 10 to get PA DEP's input on the decision rules for the final allocation in the Bay TMDL. The PA WIP8 scenario run results were also shared with you over the weekend with a request for response as soon as possible to the exchange of N and P option. As you know the lower but still significant gap in P target load attainment needs our immediate attention.

On Friday, we discussed:

**Spare Allocation** - If the latest Scenario Runs show a "Spare" or extra pounds beyond the target allocations, how should EPA handle these.

PA response: Would be OK if these were put in Reserve for Phase II and beyond, i.e. not distributed back to any particular sector at this time **12/13/2010: We are still OK with this approach. I believe this applies to the three watersheds other than the Susquehanna.**

**Final Gap Closing if Over the Target Allocation** - if the PA WIP is determined to be close to the allocation for a pollutant (for example in the range of 0-5%) then how should EPA adjust the allocation to remove the gap for attainment of standards in that basin?

PA Response: Reduce NPS Loads from agriculture and Urban Sector (no room exists in the septs area) - do a proportional reduction of the other two NPS sectors. **12/13/2010: One quick question, did the runs include any of the air initiatives (e.g. Diesel Idling Rule?), we may have misunderstood that it was to be included in the deck data, we had seen a separate e-mail thinking it was handled that way. We know it won't close the nitrogen gap, but would like to have it recognized.**

**We would suggest that urban be looked at for this. Partially, it seems that we are so close (0.4%), that the overall approach looking to improve the stormwater program, combined with the cooperative effort we envision with you on improving the recognition of stormwater BMPs in the model, will help close the gap in future years, and improve decisions related to stormwater management in future years. We are looking for significant incremental changes over a period of time with this approach.**

**Load Shifting - WIP Request or EPA Backstop**

**Storm Water (Urban Loads) Sector** - EPA has evaluated the WIP in this area which we believe falls short of expectations for a WIP with adequate reasonable assurance. And significant issues remain unresolved in the regulatory program for storm water in PA. We therefore, intend to apply an adjustment to this sector so that 50% of the Urban Loads are provided with WLAs vs LAs in the final TMDL. This would be labeled as an EPA backstop though the adjustment does not automatically result in a specific regulatory action.

PA Response: Understands the issues and is committed to working with us to address the storm water program issues moving forward. Can live with the urban load shift.  
**12/13/2010: We are OK with the approach, our understanding is that this is not an**

automatic regulatory action; and we believe any EPA actions would be developed through an open discussion with key stakeholders provided the opportunity to provide input (the recent listening sessions seemed to be a first step). Our understanding is that the PA WIP would include the model run data, and EPA would mention this in the TMDL text, but we would not in the WIP text.

**AFO/CAFO Loads** - the draft TMDL issued on September 24 put 100% of the AFO loads in the WLA column (treated as a "potential" point source). Recognizing that the PA WIP is considerably strengthened in strategies and reasonable assurance since then, EPA is proposing to shift only 50% of the AFO load to WLA in the final TMDL making up part of the reasonable assurance justification.

This is consistent with EPA actions in other states and in fact a couple of State WIPs have requested that 100% of the AFO load be placed in the WLA column. This recognizes that states have regulatory programs for AFOs which go beyond the federal CAFO program, and it also recognizes that requirements for AFOs can often mimic those for CAFOs.

EPA hopes that jurisdictions will achieve the load reductions identified in the WIP without additional actions from EPA. This shift signals that EPA is prepared to designate sources as necessary to ensure that nutrient and sediment controls identified in a jurisdiction's WIP are implemented. However, this is not a regulatory change in AFO status.

PA Response: Pending. [Should PA concur with this shift in the final TMDL, it would not be labeled as a backstopping action by EPA in the final TMDL.] **12/13/2010: This is one that we don't feel we would want to pursue. We would have a difficult time explaining environmental benefits from this change on paper, as we continue to feel the PA program is a model.**

If you would like to discuss any of this further, please let us know. I ask for your response as soon as doable to the final gap closing option for P loads and the AFO/CAFO load shift item -- thanks.

Jon